

SPECIAL COURT FOR SIERRA LEONE
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THE TRIAL CHAMBER

Before: Hon. Judge Benjamin Mutanga Itoe, Presiding Judge
Hon. Judge Bankole Thompson
Hon. Judge Pierre Boutet

Registrar: Robin Vincent

Date: 19th of November, 2004

PROSECUTOR **Against** **SAM HINGA NORMAN**
MOININA FOFANA
ALLIEU KONDEWA
(Case No.SCSL-04-14-T)

**CONSEQUENTIAL ORDER ON THE WITHDRAWAL OF MS. QUINCY WHITAKER
AS COURT APPOINTED COUNSEL FOR THE FIRST ACCUSED**

Office of the Prosecutor:

Luc Côté
James Johnson

**Court Appointed Counsel for Sam Hinga
Norman:**

Dr. Bu-Buakei Jabbi
John Wesley Hall, Jr.
Tim Owen, Q.C.
Quincy Whitaker

Court Appointed Counsel for Moinina Fofana:

Michiel Pestman
Arrow Bockarie
Victor Koppe

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yada Williams
Ansu Lansana

THE TRIAL CHAMBER (“Chamber”) of the Special Court for Sierra Leone (“Special Court”) composed of Hon. Judge Benjamin Mutanga Itoe, Presiding Judge, Hon. Judge Bankole Thompson and Hon. Judge Pierre Boutet;

MINDFUL of the *Decision on the Application of Samuel Hinga Norman for Self Representation Under Article 17(4)(d) of the Statute of the Special Court* delivered by the Trial Chamber on the 8th of June, 2004;

MINDFUL of the *Consequential Order on Assignment and Role of Standby Counsel*, delivered by the Trial Chamber on the 14th of June, 2004;

MINDFUL of the *Order for Assignment of Standby Counsel for Samuel Hinga Norman*, issued by the Registrar on the 15th of June, 2004;

MINDFUL of the Oral Ruling of the Trial Chamber on the 21st of September, 2004, appointing Ms. Quincy Whitaker as Court Appointed Counsel for the First Accused where the Trial Chamber ruled that:

“The Trial Chamber has heard Ms Whitaker’s Statement that she can no longer serve as Court Appointed Counsel for the 1st Accused on the grounds that a report dated the 10th of November, 2004, from the Principal Defender on the issue of her failure to sign a Legal Services Contract, has accused her of professional misconduct. In the light of such allegations, she has stated that she cannot continue to act as Court Appointed Counsel for the 1st Accused and therefore, seeks leave from the Court to withdraw from the case. The Principal Defender who has filed that report at the request of the Court on issues pertaining to the signing of the Legal Services Contract by Ms. Whitaker, responded with the observations that her decision to withdraw from the case is regrettable but is of her own making and that she affirms standing by her report, primarily to set the record straight, in the light of Ms. Whitaker’s representations to the Court on the 2nd of November, 2004, about the signing of her Legal Services Contract.

The Trial Chamber regrets this unfortunate decision by Ms. Whitaker, but in the circumstances, has no alternative but to grant the leave sought and to accept that she can withdraw from the case.”

MINDFUL of the *Ruling on the Issue of Non-Appearance of the First Accused Samuel Hinga Norman, the Second Accused Moinina Fofana, and the Third Accused, Allieu Kondewa at the Trial Proceedings*, delivered in writing on the 1st of October, 2004;

MINDFUL of the *Consequential Order on the Role of Court Appointed Counsel*, delivered by the Trial Chamber on the 1st of October, 2004;

MINDFUL of the Application made in Court by Ms. Quincy Whitaker on the 4th of November, 2004, to withdrawal as Court Appointed Counsel for the First Accused;

MINDFUL of the Trial Chamber's Oral Ruling on the 11th of November, 2004, granting the leave sought by Ms. Quincy Whitaker, Court Appointed Counsel for the First Accused, to withdraw from the case and from her appointment as Court Appointed Counsel;

NOTING that the right to a fair trial enshrined in Article 17(2) of the Statute of the Special Court ("Statute") concerns not only the interests of the Accused but also the institutional interests of the judicial system;[\[1\]](#)

CONSIDERING that the act of assignment of Counsel by the Registrar or by the Principal Defender, pursuant to Rules 44 and 45 of the Rules of Procedure and Evidence of the Special Court ("Rules") and the Directive on the Assignment of Counsel, and the act of appointment of Counsel by the Trial Chamber, in the interests of justice, and pursuant to Rule 60 of the Rules, are different means of designating Counsel to represent an Accused person, who upon assignment or appointment are subjected to the same obligations to act both in the interests of the Accused and in the overall interests of justice;

CONSIDERING that in the performance of their duties, Court Appointed Counsel shall be subject to the relevant provisions of the Statute, of the Agreement, of the Rules, of any other rules, regulations or Codes of Conduct adopted by the Special Court, of the host Country Agreement, of the Directive on the Assignment of Counsel, and of the codes of practice and ethics governing their profession, and that these provisions, as they explicitly apply to Assigned Counsel, apply *mutatis mutandis* to Court Appointed Counsel;

CONSIDERING therefore, that the relevant provisions as outlined above, that govern the withdrawal of Assigned Counsel, apply *mutatis mutandis* to Court Appointed Counsel;

PURSUANT TO Rule 54 of the Rules;

THE TRIAL CHAMBER THEREFORE:

ORDERS the Registrar, in consultation with the Principal Defender, to undertake the necessary means, pursuant to the applicable law, to implement the Trial Chamber's Oral Ruling on the withdrawal of Ms. Quincy Whitaker as Court Appointed Counsel for the First Accused.

Done in Freetown, Sierra Leone, this 19th day of November, 2004.

Hon. Judge Pierre Boutet Hon. Judge Benjamin Mutanga Itoe Hon. Judge Bankole Thompson
Presiding Judge,
Trial Chamber

[Seal of the Special Court for Sierra Leone]

[\[1\]](#) See *Farhad v. United States*, 190 F.3d 1097 (9th Cir. 1999), 1107-08.
